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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 18TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR.JUSTICE G.C.BHARUKA

WRIT PETITION NO:15318/1996

BETWEEN:

Smt.Veena Nagaraj, w/o S.Nagaraj,  
32 years, Lecturer in Economics,  
M.E.S. College, Malleswaram,  
Bangalore.

(By Sri V.Lakshminarayana, Adv) ..Petitioner

AND:

1. The State of Karnataka,  
rep by its Secretary,  
Education Dept, M.S. Buildg,  
Bangalore.
2. The Director of Collegiate Education,  
Palace Road, Bangalore.
3. The Principal,  
M.E.S.College, Malleswaram,  
Bangalore.

(By Sri G.Papi Reddy, AGA for R-1 & 2;  
R-3 served;)

..Respondents

. . .

Writ petition is filed under Articles 226 and 227 of the Constitution of India with a prayer to direct the respondents to pay the salary to the pet from 1.9.94 immediately and etc.,

This petition coming on for final disposal this day the Court made the following:

W.P.15318/96

## O R D E R

Heard the learned counsel for the petitioner and M  
V. Vidya, learned H.C.G.P. for the respondents

2. The petitioner is an employee of a Priv  
Educational institution. The relief claimed by him in  
present writ petition pertains to his employment.  
Division Bench of this Court in W.A. No. 1833 to 1836  
and connected matters (DD 30.05.1998) has held that even  
the private educational institution has been admitted  
grant-in-aid under the provisions of the Grant-in-Aid Code  
the State government, still no relationship of master  
servant between the government and the person like  
petitioner comes into being and therefore, the writ petit  
filed by such an employee is not maintainable under Arti  
226 of the Constitution of India, since he has effecti  
efficacious and alternative statutory remedies availa  
under the Karnataka Education Act, 1983 (in short 'the Act

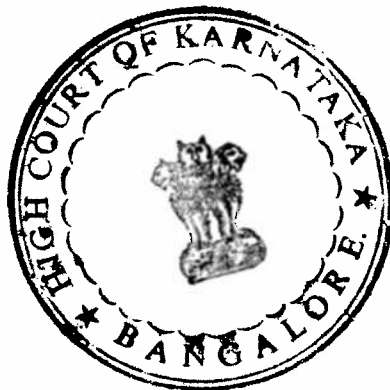
3. In paragraph 12 of the judgment it has been h  
that.-

"As regards the locus standi of staff working in  
the aforesaid educational institutions to maintain  
the writ petitions, they have got the remedy of  
appeal under Section 94 of the Education Act  
against an order of dismissal or removal from  
service or reduction in rank. Under Section 130,  
appeal is provided against any order passed by an  
officer or authority under the Act. Section 131  
provides for revision by Government either suo moto  
or on an application from any person interested.  
Section 132 of the Education Act provides for  
review by the State Government either suo moto or  
on an application received from any person

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interested. The Government is also vested with the power to give direction under Section 133 of the said Act to make enquiry or take appropriate proceeding by the Commissioner or Director or any other officer not below the rank of District Educational Officer and to submit report. Thus, the Education Act provides for appeal, revision and review in respect of any order and in the absence of any order, the Government can be moved for issuing necessary direction in exercise of its power under Section 133 and the staff can avail the said remedies. Even with regard to payment of salary, what is stated above with regard to the teaching and non-teaching staff applies the other staff also. Without exhausting such alternative remedy, they cannot be permitted to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution."

4. For the aforesaid reasons the writ petition is dismissed on the ground of availability of efficacious and effective alternative remedy. However, all the rights and contentions of the parties on merits are kept open for being agitated before the appropriate statutory authorities. If so advised, the petitioner may avail his statutory remedy by way of filing appeal / revision / application as the case may be under the Act within SIX WEEKS from today and in the event of filing of the same, the concerned authorities will dispose of such appeal / revision / application within THREE months from the date filing thereof. If any such remedy has already been availed, then the same should be disposed of within THREE months from the date of communication of this order.



Sd/-  
JUDGE

jsk/-